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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,833	11/14/2003	William James Moore	SP-1756.1US	2557
20875	7590	03/09/2009		
MICHAEL C. POPHAL EVEREADY BATTERY COMPANY INC 25225 DETROIT ROAD P O BOX 450777 WESTLAKE, OH 44145			EXAMINER LEWIS, BEN	
			ART UNIT 1795	PAPER NUMBER
			MAIL DATE 03/09/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WILLIAM JAMES MOORE,
AND JIANJUN WU

Application No. 10/713,833
Technology Center 1795

Mailed: March 9, 2009

Before DELORES LOWE, *Review Team Paralegal*
LOWE, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on December 23, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

On May 12, 2008 Appellants filed an Appeal Brief. On page 7, under the heading “Grounds of Rejection to be Reviewed on Appeal” the Appellants stated:

Whether claims 5-8, 14-15 26-29, 32-34, 37-39 and 45-46 are patentable under 35 U.S.C. as obvious over U.S. Patent Application Publication No. 2004/0115532 to Malservisi et al. in view of **U.S. Patent No. 6,436,539 to Goldstein et al.** and further in view of U.S. Patent Application Publication No. 2004/003318 to Armacanqui et al.

In response, an Examiner’s Answer was mailed on August 1, 2008. While the Answer notes that “The appellant’s statement of the grounds of rejection to be reviewed on appeal is correct . . .” [page 2], the Examiner’s Answer, the following § 103 rejections were made:

Claims 5-8, 14-15, 26-29, 32-34, 37-39 and 45-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malservisi et al. (U.S. Pub. No. 2004/0115532 A1) in view of **Tada et al. (U.S. Patent No. 6,436,539 B1)** and further in view of Armacanqui et al. (U.S. Pub. No. 2004/0033418).

A clarification of the claims to be applied in the rejection is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) to vacate Examiner's Answer mailed August 1, 2008, and issue a revised Examiner's Answer to give a proper explanation of the grounds of rejection; and
- 2) for such further action as may be appropriate.

If there are any questions pertaining to this order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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